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Mar 17 2008 04:47pm P002/009

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL GOINES,

Plaintiff,

-against-

THE CITY OF NEW YORK, COMMISSIONER  
RAYMOND KELLY, P.O. SUPERVISOR JOHN DOE  
#1, P.O. GREGORY CLARKE, and DENNIS RUSSO,  
the individual defendants sued individually and in their  
official capacities,

Defendants.  
----- X

**STIPULATION AND ORDER  
OF SETTLEMENT AND  
DISCONTINUANCE**

07-CV-05448 (CM)

WHEREAS, plaintiff MICHAEL GOINES commenced this action by filing a complaint in or about June 8, 2007 alleging that certain of his federal and state rights were violated; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations;

WHEREAS, plaintiff and defendants now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, no party herein is an infant or incompetent for whom a committee has been appointed; and

WHEREAS, plaintiff MICHAEL GOINES has authorized counsel to settle this matter as against defendants on the terms enumerated below:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

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1. The above-referenced action is hereby dismissed as against defendant, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

The City of New York hereby agrees to pay plaintiff the sum Thirty Thousand Dollars (\$30,000) in full satisfaction of all claims as against defendants, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiffs agree to the dismissal of all claims against the City of New York and all individually named defendants, and to release all defendants and any present or former employees or agents of the City of New York from any and all liability, claims, or rights of action that have or could have been alleged by plaintiffs in this action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.

2. Plaintiff MICHAEL GOINES shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No/Concerning Liens.

3. Other than as set forth in paragraph "2" above, plaintiff and his counsel, or any party in privity with either of them, shall have no recovery for any damages, injury, equitable or other relief, or fees or costs in connection therewith.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

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5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.


6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
March 25, 2008

Mr. Michael Hueston, Esq.  
Attorney for Plaintiff  
350 Fifth Avenue  
Suite 4810  
New York, NY 10118  
(212) 643-2900

By:   
MICHAEL HUESTON, ESQ. (0931)

SO ORDERED:

  
U.S.D.J.

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendant  
100 Church Street, Room 3-142  
New York, New York 10007  
(212) 676-1347

By:   
BROOKE BIRNBAUM (BB 8338)  
Assistant Corporation Counsel

3-25-2008